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**No. 131] NEW DELHI, MONDAY, MAY 25, 1953**


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**ELECTION COMMISSION, INDIA****NOTIFICATION***New Delhi, the 13th May 1953*

**S.R.O. 965.**—WHEREAS the Election of Shri Aranganathan of Palapattu village, Gingee Taluk, South Arcot District, Madras State, as a member of the Legislative Assembly of the State of Madras from the Gingee constituency of that Assembly, has been called in question by an Election Petition duly presented under Part VI of the Representation of the People Act, 1951 (XLIII of 1951), by Shri Kasi Ramakrishnasami of Sathiamangalam village, Gingee Taluk, South Arcot District, Madras;

AND WHEREAS, the Election Tribunal appointed by the Election Commission, in pursuance of the provisions of section 86 of the said Act, for the trial of the said Election Petition has, in pursuance of the provisions contained in section 103 of the said Act, sent a copy of its Order to the Commission;

NOW, THEREFORE, in pursuance of the provisions of section 106 of the said Act, the Election Commission hereby publishes the said Order of the Tribunal.

**BEFORE THE ELECTION TRIBUNAL, TIRUCHIRAPPALLI**

(In the matter of the petition presented by Sri Kasi Ramakrishnasami Pillai questioning the Election of Sri K. Aranganathan as a member of the Madras State Legislative Assembly from the Gingee Constituency of South Arcot District.)

**PRESENT:**—Sri H. Ananthanarayana Ayyar, I C S.,—*Chairman*,

**AND**

- (1) Sri L. S. Parthasarathy Ayyar, B.A., B.L.,
- (2) Sri V. C. Viraraghavan, B.A., B.L.—*Members*.

*Saturday, the 25th day of April 1953***ELECTION PETITION No. 85 OF 1952****BETWEEN**

Sri Kasi Ramakrishnasami Pillai son of Sanjivi Pillai residing at Sathiamangalam, Gingee Taluk, South Arcot District—*Petitioner*.

**AND**

- (1) Sri K. Aranganathan son of Kuppuswami Kandar residing at Palapattu Village, Gingee Taluk, South Arcot District.
- (2) Sri Narayanaswami Naidu son of Thambu Naidu residing at New Street, Ananthapuram Gingee Taluk, South Arcot District
- (3) Perianna Goundar son of Subbaraya Goundar residing at Nelpappampadi, Gingee Taluk, South Arcot District—*Respondents*.

This election petition coming on for hearing on the 24th, 25th, 26th, 27th, 28th and 29th days of November 1952 and on the 3rd, 4th, 5th, 6th, 15th, 16th, 17th days of December 1952 and on the 19th, 20th, 21st, 22nd, 23rd, 28th and 29th days of January 1953 and on the 4th, 12th, 13th, 14th, 18th, 19th, 20th, 26th, 27th days of March 1953 in the presence of Sri R. Thirumalachariar, Advocate for the petitioner and of Sri S. Kasthuriranga Ayyangar and Sri S. P. Thangavallu Advocate for 1st respondent and the respondents 2 and 3 not appearing either in person or by pleader and the petition having stood over to this day for consideration the Tribunal passed the following.

### ORDER

1. This petition relates to an election to the Madras Legislative Assembly from the Gingee Constituency (a single member constituency). There were four candidates for the election. The petitioner was a candidate on the Congress Party ticket; the 1st respondent Aranganathan on the Tamil Nad Toilers' party ticket (T.N.T.); the 2nd respondent who was the Communist candidate withdrew. The 3rd respondent Periantha Goundar stood as an Independent candidate. The Election took place on 5th January 1952. The votes secured were as follows:—

Petitioner	... 14837.
1st Respondent.	... 16918.
2nd Respondent.	... 1769.
3rd Respondent.	... 2818.

The 1st respondent was declared duly elected. The petitioner Kasi Ramakrishnasami Pillai feels aggrieved and has filed this petition. He prays for declaring:—

- (a) the election to be void;
- (b) the election of the 1st respondent to be void; and
- (c) the petitioner to have been duly elected.

2. Petitioner made various allegations of corrupt and illegal practices as having been committed by the 1st respondent and his agents and workers. Particulars of these corrupt and illegal practices are set forth in Schedules A to E to the petition; and in the petitioner's memo dated 25th September 1952. The 1st respondent has filed a counter denying those allegations. Respondents 2 and 3 did not file any counter.

3. The following issues were framed:—

i. Whether the 1st respondent and other persons on his behalf, including his agent, committed acts of corruption and bribery on 4th January 1952 and 5th January 1952, at various villages as detailed in Schedule A to the petition and as alleged in para 11 of the petition, and also in para 5 of the petitioner's memo dated 25th September 1952?

ii. Whether on 5th January 1952, the 1st respondent and his father and others on his (1st respondents) behalf, treated and supplied intoxicating drink to Vannia and Harijan voters as specified in Schedule B to the petition and in para 12 of the petition, and para 1 of the petitioner's memo dated 25th September 1952?

iii. Whether Govindaraju Chetty of Semmedu, on behalf of and with the knowledge and connivance of the 1st respondent, arranged and supplied double-bullock carts for the conveyance of Harijan and Vannia voters from Semmedu village to Velanthangal Polling Station on 5th January 1952 as alleged in para 13 of the petition Schedule C to the petition, and para 2 of the petitioner's memo dated 25th September 1952?

iv. Whether there was false personation of voters in the various polling booths on the day of election as specified in Schedule D to the petition and alleged in para 3 of the petitioner's memo dated 25th September 1952?

v. Whether all or any of the items of false personation referred to in issue (iv) were or was brought about by the respondent or his agents or his workers or with the knowledge and connivance of the 1st respondent?

vi. Whether the 1st respondent, 2nd respondent and others specified in Schedule E to the petition held public meetings at various villages as specified in that schedule on various dates from 20th December 1951 to 3rd January 1952 as alleged in paras 8, 9, 17 and 18 and Schedule E and para 4 of the petitioner's memo dated 25th September 1952 and used language of intimidation, threat, etc., at those meetings?

vii. Whether the following facts alleged in the petition are true and the election has not been a free election by reason of those facts:—

- (1) that, as alleged in paras 11 and 12 of the petition, bribery extensively prevailed at the election.
- (2) that, as alleged in paras 6 and 7 of the petition, intimidation by threat of social boycott, social ostracism of Vannia voters and of the economic boycott of Vannia and Harijan voters were resorted to for procuring votes to the 1st respondent.
- (3) Whether, as alleged in paras 8, 9 and 18 of the petition, undue influence on Muslim, Vannia and Harijan votes extensively prevailed at the election?

viii. whether the 1st respondent directly and through others made systematic appeal to vote or to refrain from voting on grounds of caste, community and religion by means of issue of leaflets, etc., as alleged in paras 6 and 9 of the petition?

ix. Whether, in connection with the election concerned in this petition, any leaflets were issued without mentioning the name and address of the printer and publisher as contemplated under Section 125(3) of the Representation of the People Act 1951 with reference to the election, and, if so, whether the 1st respondent was in any way connected with such issue?

x. Is the petitioner entitled to all or any of the reliefs prayed for in para 4 read with para 20 of the petition?

4. The petitioner examined 27 witnesses. Of these, P.W. 4 is the petitioner. P.Ws. 18, 19, 22 and 27 were his Polling agents at various polling stations. Petitioner filed documents Ex. A-1 to A-50. The 1st respondent examined 24 witnesses. Of these, R.W. 21 is the 1st respondent. R.W. 24 is his father Kuppusami Kandar. R.W. 18 is the 2nd respondent (Communist candidate) who withdrew from the contest and supported the 1st respondent by doing election propaganda for him in various villages. R.Ws. 1, 7, 9, 11, 15 and 20 were polling agents of the 1st respondent at various polling stations. The 1st respondent filed Exs. B-1 to B-10.

5. *Issue 1*.—Schedule A mentions 9 specific instances (items) of bribery. No evidence was let in by the petitioner as regards items 4, 5 and 7.

6. *Items 2, 6 and 9*:—

*Item 2*.—(Kadambur—4th January 1952).—P.Ws. 15 and 16 deposed about this item, and their version is as follows:—

On the night of 4th January 1952, R.Ws. 15 and 16 assembled the Harijans in the Nariamman Temple in the Harijan Cheri at Kadambur, and paid 4 or 8 annas to them for each vote and also issued chits to the voters showing their respective numbers in the electoral roll. P.W. 16 (who is a local Thotti) saw this bribery. Just then P.W. 15 also arrived. P.W. 16 told him what had happened.

7. The version of P.W. 18 is that he reached the spot even before the arrival of P.W. 15 and that both of them left the spot together. P.W. 15 went to the extent of saying that he saw Rs. 50 being paid by R.W. 16 to P.W. 16 with instructions and that P.W. 16 showed him the money on the spot. P.W. 16 does not corroborate this version of P.W. 15. The evidence of the P.Ws. is discrepant and not satisfactory. R.Ws. 15 and 16 denied the allegation of bribery. This item is not satisfactorily proved.

8. *Item (6) (Alampoondi—5th January 1952)*.—P.W. 22 is the only witness. His version is that when he was in the polling station in the morning of 5th January 1952 at Alampoondi, one Venkatasami told him that Karia Kavandar (R.W. 10) had given Rs. 200 to voters. R.W. 10 denied having given any money to voters. The evidence of P.W. 22 is of a hearsay nature and does not prove any bribery.

9. *Item (9) (Veergmanallur—5th January, 1952)*.—The only witnesses who speak about this alleged bribery are P.Ws. 23 and 24, men of Semmedu village. P.W. 23 says that P.W. 24 told him about the bribery by R.W. 12. P.W. 24 in turn says that one Chinnappayyan and his nephew Subramanian told him that each of them had been paid 4 annas for votes. The evidence of both the P.Ws. is of a hearsay nature. It does not prove bribery. R.W. 12 denied this allegation of bribery.

## 10. Items 1, 3 and 8:—

Item 1, Devadanampettai Cheri (7 P.M.—4th January 1952):—

P.Ws. 10 and 11 deposed about this. Their version is as follows:—P.W. 11 went to the Cheri to call for coolies. There he saw Chidambaram Mudaliar (R.W. 2) and one Thanji Goundar handing over to each Harijan voter a chit as well as 4 annas in cash. When P.W. 11 questioned Thanji Goundar about this, the latter explained that he was paying money to the voters to vote for the 1st respondent. That same night at 7 P.M., P.W. 10 went to the house of one Namasivaya Bhoopathi. There the 1st respondent handed over Rs. 120 to Subramanian (R.W. 1), Chidambaram Mudaliar (R.W. 2) and Thanji Goundar and asked them to distribute the money to Vannia and Harijan voters at 4 annas each and Thanji Goundar then paid money to six Harijans.

11. R.Ws. 1, 2 and 21 (the 1st respondent) deny these allegations. The petition and schedule do not mention the 1st respondent at all as having taken part directly in the bribery, though it mentions R.Ws. 1, 2 and Thanji Goundar. Thanji Goundar has not been examined. The evidence of the P.Ws. is not acceptable. This item is not proved.

12. Item 3.—(Vallam—4th January 1952).—The only witness about this is P.W. 14 (who is a man of Nattarmangalam, half a mile from Vallam). His version is as follows:—

Nataraja Goundar (R.W. 22) and Govindaraja Goundar (R.W. 17) distributed money at the rate of four annas each to the Harijans in Vallam Cheri. P.W. 14 came there to call people for harvesting work and then saw the payment. 60 or 70 people were assembled there and slips and cash were given to 30 people.

13. P.W. 14 is unable to name any one of them though he says that he can identify them. He says that when he went to the Vallam Polling booth the next morning, he saw these very 30 men come in a body to the Polling booth and vote. We find it difficult to believe this witness. R.Ws. 20 and 22 deny the bribery. This item of bribery is not proved.

14. Item 8 (Sathyamangalam).—The only witness is P.W. 25, Katturaja (who is a resident of Sathyamangalam Chery). He deposed that Teacher Anthonisami (R.W. 3) and Kannayiram (R.W. 11) came to his Chery in the night of 4th January 1952 and gave money at 4 annas per vote to the owners of three contiguous houses including his house (of P.W. 25). He asserted in the box (before us) that he was not convicted of theft. Ex. B-8 which is Calendar extract in C.C. No. 605 of 1949 on the file of the Stationary Sub Magistrate, Gingee, shows that he was convicted of theft. P.W. 25 is not reliable. R.Ws. 3 and 11 denied the allegation of bribery. This item 8 is not proved.

15. Thus, in effect, we find that there is no reliable evidence to show that the 1st respondent or any one on his behalf committed any acts of bribery as alleged in Schedule A to the petition. Accordingly we find issue 1 against the petitioner,

16. Issue No. 2.—Schedule B contains 5 items of treating of voters on the election day. No evidence was let in by the petitioner regarding items 3, 4 and 5.

17. Item 1 (Sethavarai).—The only witness who speaks about this item is P.W. 27 (Savarimuthu), retired Havildar who was working as Polling agent of the petitioner at Sethavarai polling station. His version is as follows:—At the polling station, he found some voters reeking with smell of arrack. He told the Polling Officer about it. He also saw the 1st respondent's father Kuppuswami Kandar (R.W. 24) doling out arrack to voters in the house of the local Village Munsif R.W. 13 which was near the Polling Station. He also saw men going in a drunken condition from that house to vote.

18. R.Ws. 13 and 24 denied this allegation. They say that R.W. 24 did not visit Sethavarai Village at all on 5th January 1952. No formal regular complaint has been given to any Officer about the alleged incident in R.W. 13's house. Polling Officer has not been examined. So, the uncorroborated evidence of P.W. 27 cannot be accepted as sufficient proof. This instance is not proved.

19. Item 2 (Ananthapuram).—The only witness is P.W. 17 Rajagopala Chettiar, a ryot of Ananthapuram. His version is as follows:—

At about 3 p.m. P.W. 17 went to the hotel of Perumal Chettiar and saw 7 or 8 Harijans of Chithrasur come there and take tiffin by producing chits which contained writing as follows:—

"To T.S.P. tiffin to be given for 3 annas".

(Sd.) C. Narayanasami (i.e. 2nd Respondent)

On the back of each chit was the rubber stamp of "Handloom Weavers' Sangam, Ananthapuram".

20. P.W. 17 was also polling agent of the petitioner at Ananthapuram that day. He says that he remained at the polling station only from 7 A.M. to 12 noon. He went out at 3 P.M. to the hotel, but did not go to the Polling booth. He does not say that he seized any of the alleged, chits or complain to any authority about the corrupt practice which he alleges to have seen. His evidence is not acceptable. R.W. 18 (2nd respondent) has denied issuing chits for treating as alleged by P.W. 17. This item is not proved.

21. Thus none of the instances in B schedule is proved by satisfactory evidence. Accordingly we find this issue 2 against the petitioner.

22. *Issue 3 (Schedule C).*—It relates to conveyance of voters in vehicles. The only witness is P.W. 24. He keeps a tea-stall on the roadside at Semmedu about two miles from Velanthalangal Polling Station. His version in Chief-examination is as follows:—

In the morning of 5th January 1952, Narayanaswami took voters in a double-bullock cart of Haribadra Chettiar to the polling station at Velanthalangal. He drove the cart in four trips with 10 persons in each trip at 7 A.M.

23. The petition-schedule mentions merely that Govindaraja Chetty arranged the vehicles for taking voters. P.W. 24, in his chief-examination, made no reference, to Govindaraja Chettiar (R.W. 12) at all. But in cross-examination, he came forward with the version that he saw R.W. 12's cart, drawn by the bullock of Varadarajulu and driven by Bangaru Naidu and conveying some close relatives. He cannot specify the persons who went in Haribadra's cart. He admits ignorance as to where the cart went and as to whether the occupants were voters at all. The evidence of this witness is unsatisfactory. R.W. 12 denies having lent his cart for transport of voters on behalf of the 1st respondent. He was a polling agent for Petitioner himself at Velanthalangal Polling station and worked there along with P.W.23 for petitioner.

24. We find that this item is not proved. We find issue 3 against the petitioner.

25. *Issues 4 and 5* relate to false personation of voters. In Schedule D. 8 instances are mentioned. No evidence was let in regarding items 2, 3 and 5 to 8.

26. *Item 1 (at Athiyur).*—Ex. A-16 is the Calendar extract showing that one Abdul Gafoor was convicted of the offence of false personation at Athiyur polling station on his own admission, under Section 171-F I.P.C. The judgment shows that the accused falsely voted in the name of his brother Shaik Hadar once, went away, came back and attempted to vote in his name of Abdul Gafoor and that he was caught.

27. P.W. 13 is the only witness who deposed about this incident. He stated that R.W. 9 brought Abdul Gafoor to the Polling Booth. R.W. 9 denied this allegation. He was polling agent of the 1st respondent at Athiyur and says that he was engaged in the women's booth and not at all in the men's booth. P.W. 18 is not in any way more reliable than R.W. 9. There is no satisfactory evidence to show conclusively that R.W. 9 or any other agent of the 1st respondent had any connection with Abdul Gafoor's false personation. This item is not proved.

28. *Item 4 (At Ananthapuram).*—P.Ws. 17 and 19 deposed about the false personation, viz., that one Govindasami Naidu, son of Krishnappa Naidu (whose name was not in the electoral roll at all and who was not entitled to vote) personated Govindasami Naidu son of Ramasami Naidu. P.W. 19 alone speaks to having actually seen the false personation as an eye-witness when he (P.W. 19) was sitting in the polling booth as polling agent of petitioner. But he says that he did not raise any objection. He explains that he was inexperienced and did not know that objection should be raised. The fact of false personation has not been satisfactorily proved. In any case, there is no evidence to show that the 1st respondent or any of his people had anything to do with this alleged false personation. So we find as follows:—

29. *Issue 4.*—There was false personation as alleged in incident No. 1, but no false personation has been proved regarding other items.

30. *Issue 5.*—The false personation which we have found to have taken place under issue 4 is not shown to have been brought about by the 1st respondent or his agent or his workers or with the knowledge and connivance of the 1st respondent.

31. *Issue No. 9.*—Paragraph 16 of the petition relates to this issue. In it, there is no specific reference to any particular leaflet, though there is a general reference to leaflets. There is no list or schedule corresponding to this paragraph 16 (of the petition). The leaflets relied on are Exs. A3(a) and A7(a). These two (documents) are election notices. The 1st respondent admits having published them and issued the corresponding manuscripts Exs. A-3 and A7, to the printer P.W. 2. Both these documents bear on their face the name and address of the printer. They also mention the publisher as (Election propaganda Committee, Gingee). The only contention of the learned advocate for the petitioner is that these documents do not contain the name of the individual persons who published it, i.e., the names of the persons who formed the Election propaganda Committee. This contention is not tenable. There is no illegal practice as contemplated in Section 125(3). Even assuming that there is any technical defect or failure to strictly comply with the provisions of Section 125(3), there is nothing to show that the result of the election was in any way materially affected. We find that no illegal practice under Section 125(3) has been committed by the 1st respondent.

32. *Issue 6.*—This relates to meetings held in the places mentioned in Schedule E wherein language of intimidation, threat, etc., is said to have been used by the 1st respondent and his workers. Of the 19 items, petitioner has left in evidence only regarding items 1 to 6, 9, 11, 12, 13, 14 and 17. R.W. 22 admits having attended all the above meetings except item No. 14 (at Melasithambur). R.W. 23 specifically mentions having attended the meeting at Melasithambur and addressed an audience there. Beyond doubt, the meetings took place at the various places mentioned above. We are dealing below with the evidence regarding each individual meeting.

33. *Item 1.*—Athiyur, about 15 days prior to the election:—P.W. 18 speaks about this meeting, and his version is as follows:—Some 300 or 400 people were in the audience. R.Ws. 18, 22 and 23 were also present. R.W. 23 addressed the audience, and said "We have put up the 1st respondent as candidate on behalf of our Sangam. 3rd respondent is standing as an independent. All people should vote only for the 1st respondent. If any of you fail to vote for the 1st respondent, we will get them boycotted, etc. (You (Harijans) and we (Vannias) cultivate together. So you must vote only for the 1st respondent. If you do not do so, we will not take you for joint cultivation or as waramdars. Muslims! You will be shot just as you were done in Meenamur. You too must vote for our man". P.W. 18 went away and did not see the others addressing the meeting.

34. P.W. 18 is not a man of Athiyur. He is a resident of Ananthapuram and says that he happened to see the meeting and was attracted by it when he was on his way home from Tindivanam viz., Gingee. He was present at the meeting only for about ¼th of an hour. He was polling agent for petitioner at Athiyur polling station. The evidence of this witness is not satisfactory and we have not found the evidence of this witness in respect of the false personation of Abdul Gafoor (in para. 26 of this order) as acceptable. As against the evidence of this witness, there is the evidence of P.Ws. 8, 21, 18, 22 and 23. The three latter say that they addressed the meeting, but assert that they did not make any communal propaganda or give out any intimidation or threat as spoken to by P.W. 18. Their evidence is supported by R.W. 8 who is a local man of Athiyur.

35. *Item 2 (Alampoondi—20th December 1951).*—P. W. 4 (Petitioner) as well as P.Ws. 18, 22 and 23 speak about this meeting. This is the only meeting about which the Petitioner has personal knowledge. The version of petitioner (P.W. 4) is that R.Ws. 22, 23 and 18 told the Harijans that they would be evicted from the land if they did not vote for the 1st respondent, appealed to Vannias that Vannia votes should be given only to Vannias and frightened Muslims by reference to Meenamur incident. P.W. 22 corroborated P.W. 4. He was polling agent for Mr. Goenka who was the Congress candidate for Parliament.

36. As against this, there is the evidence of R.W. 4 in addition to the speakers R.Ws. 18, 22 and 23. They deny the communal propaganda, intimidation, and threat etc., alleged by P.Ws. 4 and 22. R.W. 4 is a Vannia resident of Metur, about two miles from Alampoondi, and he says that he presided at the meeting which was attended by about 200 people composed of all communities. He says in particular that the speakers only said at the meeting that the 1st respondent, if elected, would help all the people. We observed that this witness was a simple and straightforward man in his demeanour. We find no particular reason to prefer the evidence of P.W. 22 or P.W. 4 to that of R.W. 4.

37. *Items 3 and 11.*—Gingee.—P.W.s. 6 and 8 deposed about this meeting, which is said to have taken place in Valluvar Thidal in Sakkarapuram within Gingee Town limits. P.W. 8 is the President of the Panchayat Board, Gingee, and says

that the audience contained people of all communities. His evidence is in line with the evidence of P.Ws. 1 regarding the meetings at Athiyur and Alampoondi. P.W. 6 admitted that he was a particularly trusted confidant of Veeraswami Nainar who is the President of the Taluk Congress Committee at Gingee and has been sending moneys to the petitioner during the conduct of these proceedings. Some of these amounts have been sent to P.W. 6 who has been in Tiruchirappalli in connection with these proceedings for many days, apart from the day on which he was examined. P.Ws. 6 and 8 are interested persons. It is not safe to rely on their evidence.

38. On the side of the 1st respondent, there is the evidence of R.W. 19 in addition to the evidence of R.Ws. 22 and 23. He (R.W. 19) is a Muslim of Gingee and deposed that the speakers only said that the 1st respondent would do a lot of good to poor people and did not speak anything about kattupadu or about Meenamur incident.

39. P.W. 8 also deposed about the meeting at Sirukadambur within Gingee limits. His evidence was contradicted by the Village Munsif of Sirukadambur, R.W. 14, who deposed to have watched the meeting from his shops which were opposite to the place of meeting. It appears from the evidence that there has been long standing enmity between R.W. 14 and Veeraswami Nainar.

40. *Item 4.—Devadanampettai.*—The only witness who speaks about this on the side of the petitioner is P.W. 10 and he spoke to the same effect as P.W. 4 did regarding the Alampoondi meeting. In particular, he mentioned that R.Ws. 18, 21, 22 and 23 spoke to an audience of over 300. This was the witness who deposed about having seen the 1st respondent pay Rs. 120 to Thanji Kandar in the incident of bribery concerned in Item 1 of A schedule which we have disbelieved. (Para 11). We do not believe him.

41. As against this evidence, there is the evidence of R.Ws. 1 and 18 in addition to the evidence of R.Ws. 22 and 23. Of these, R.W. 1 is a ryot of Devadanampettai village itself and was the polling agent of the 1st respondent in that village. He denied the allegations made by P.W. 10 regarding the speech and stated that the speakers simply said that voters must elect the most learned and competent men to represent them in the Legislature and that no one said that Vannias votes should not be given to non-Vannias.

42. *Item 5.—Thiruvampattu.*—The only witness on the side of the petitioner who speaks about this meeting is P.W. 9 who is a ryot of Thirumathikunnam, two miles from Thiruvampattu. His version is as follows:—At 2 P.M. on 22nd December 1951, R.Ws. 18, 21, 22, and 23 addressed an audience consisting entirely of Vannias, 300 in number, and said that all Vannias must vote for the 1st respondent, that the Harijans also must be made to co-operate with Vannias and that Kattupadu must be enforced against people who did not vote for the 1st respondent.

43. He says that he reprimanded R.W. 22 for having made threat of kattupadu etc., but all the same he says that he accompanied R.W. 22 to Kongarupattu meeting and attended the meeting held by R.W. 22, etc., at that place at 6 P.M. which was addressed by the same speakers to a purely Vannia audience in the same manner. He also admits that he (P.W. 9) actually canvassed for the 1st respondent at the request of P.W. 22. This witness says that no one had power to impose any Kattupadu on him and that each man voted as he chose. But he also says that Harijans voted for the Congress in the election (and that Vannias effected a kattupadu until P.W. 9 interceded). So it is difficult to accept the evidence of this witness.

44. As against this, there is the evidence of R.W. 7 in addition to the evidence of R.Ws. 18, 22, 23 and 24. R.W. 7 is a resident of Thiruvampattu and presided at the election meeting in that village. He denied the allegation of appeal on grounds of caste and mention of kattupadu by the speakers. He says that the speakers told the people that they may vote freely for any one they chose and this is in agreement with the evidence of P.W. 9 himself that each man voted as he chose. R.W. 7 also says that the audience at Thiruvampattu included Chettiars, Voddars, Vannias, Harijans, etc.

45. *Item 6.—Kongarapattu.*—The only witness who speaks about this item is P.W. 9. His evidence has been discussed under Item 5. As against the evidence of this witness, there is the evidence of R.W. 5 (in addition to the evidence of R.Ws. 18, 22, 23 and 24). He is the president of the Panchayat Board, Kongarapattu, for about 12 years and says that the audience contained, besides Vannias, also Yadavas, Chettiars, Mudaliars, etc. He denied the allegation of P.W. 9 and said

that the speakers only said that the 1st respondent stood for the T.M.T. party and spoke about his education and status and fitness for being an M.L.A. and commended him to the tollers in the audience.

46. *Item 9.—Thudupakkam.*—P.W. 12, who is a ryot of the village speaks about this item. He does not speak of any mention of Kattupadu or threat to Harijans or Vannias. He makes no mention of Muslims at all. He says that Chatrugna Goundar and R.W. 1 ate leading men of the village whom all the other villagers are bound to obey and follow and that those two men spoke at the meeting as follows:—"We all are working hard for the 1st respondent. We will vote for him. You Harijans also must all vote for the 1st respondent." It is significant that there was no threat or intimidation in the words of these two leading men.

47. As against this witness, there is the evidence of R.W. 6 (in addition to the speakers R.Ws. 18 and 22). He says that the speakers only told the audience, i.e., voters, that they must elect young, competent and hard-working tollers and that 1st respondent was such a man. He says that he did not speak at the meeting at all.

48. *Item 12.—Ananthapuram.*—P.Ws. 17 and 20 deposed about this item. Both are residents of Ananthapuram. They say that R.Ws. 18, 22 and 23 were present at the meeting and that they both heard R.W. 22 address the audience. P.W. 17 says that he did not stay to hear any other speakers. But P.W. 20 says that he heard Communist Natarajan Chettiar also speak to the audience of about 200 including Muslims, Harijans, Vannias, Oddars, Devangas, etc., endorsing the statements of R.Ws. 22 and 18. According to P.Ws. 17 and 20, the speeches contained communal appeal to Vannias and threat of boycott to Harijans and mention to the Muslims about the Meenamur incident and their (Muslims) entire dependence on the Vannias.

49. As against this, there is the evidence of R.Ws. 18, 22 and 23. Of them, R.W. 18 i.e., the 2nd respondent, is himself a native of Ananthapuram.

50. P.W. 17 was the polling agent of Petitioner at Ananthapuram. His evidence in connection with the alleged treating of Harijan voters in Perumal Chettiar's tea shop at Ananthapuram has been discussed and has not been accepted by us in item 2 in Schedule B in paragraph of this order. He is not reliable.

51. *Item 13.—Velanthalangal.*—P.W. 23 is a ryot of Semmedu (about two miles from Velanthalangal). He says that when he was on his way to Kolapalur to get some seed paddy, he saw Nataraja Goundan addressing an audience as follows:—"We have put up the 1st respondent as candidate on behalf of V. K. Sangam. All those present here and others must vote for him. If Harijans or others do not vote for the 1st respondent, meral-miras etc., will be withheld from them by Kattu-thittam". He says that the 1st respondent was simply present at the meeting and was shown to the audience by R.W. 22, but did not speak. This witness says that he did not see any bit notice or wall-posters which mentioned that the 1st respondent stood for T.N.T. Party. As a matter of fact, all the notices and posters and other documents filed in this case mention the 1st respondent as standing only for the T.N.T. party. There is no poster or notice filed which mentions the 1st respondent as standing for V. K. Sangam.

52. R.W. 22 denies having made speech as alleged by P.W. 23. R.W. 12 is a resident of Semmedu and was the Polling agent of petitioner himself at Velanthalangal polling Station. He contradicted the evidence of P.W. 23.

53. *Item 14.—Nelsithamur.*—P.W. 13 is a Vannia resident of Nattarmangalam about half a mile away from Nelsithamur. He says that R.Ws. 21, 22 and 23 addressed an audience of 300 people including all communities and used communal appeal and threat of kattupadu to Vannias and Harijans. R.Ws. 21, 22 and 23 deny having made the communal appeal and threat of Kattupadu, etc., alleged by P.W. 13. We see no reason to believe the uncorroborated testimony of P.W. 13 in preference to evidence of R.Ws. 21, 22 and 23.

54. *Item 17.—Nallampillaipethal.*—P.W. 21 is a resident of Nallampillaipethal village and says that he saw Govindaswami and Varadan and two others going in a procession with placards and also made speeches (through loudspeakers installed at the election office) as follows:—"Vote for the 1st respondent only. He is standing on behalf of the V. K. Sangam". P.W. 21 does not say that there was any communal appeal or threat of kattupadu or any special address to Harijans or Vannias or Muslims. P.W. 21 himself admits that the placards carried by the processionists mentioned only T.N.T. party and not V. K. Sangam and that the people who went in the procession merely said that the 1st respondent was standing for T.N.T. party and did not mention V. K. Sangam. The evidence of P.W. 21 cannot be accepted.



55. There is no record to show what exactly was spoken at the meetings. The P.Ws. spoke only from their memory in respect of speeches made more than one year ago. In regard to the speeches in some of the meetings *viz.*, Alampoondi (P.Ws. 4 and 23), Gingee (P.Ws. 6 and 8), Devadasnampettal (P.Ws. 10 and 11), Sirukadambur (P.Ws. 6 and 8), Ananthapuram (P.Ws. 17 and 20) the evidence is conflicting. In regard to others there is only the solitary testimony of P.W. 18 for Athiyur, P.W. 9 for Thiruvampattu and Kongarapattu P.W. 12 for Thudupakkam P.W. 23 for Velanthangal, P.W. 13 for Melsithamur and P.W. 21 for Nallampillai-pethal. It is also highly improbable that in a public meeting composed of men of all communities, communal appeal would have been made to Vannias so openly, especially when one of the speakers in many of the meetings belonged to the Communist party whose policy was anti-communal. The evidence on the side of the petitioner in respect of the meetings is conflicting, meagre and also not reliable. Further, it is also rebutted by the evidence of the respondent's witnesses which evidence cannot be said to be untrustworthy. We find that meetings were held in the villages (items 1 to 6, 9, 11, 12, 13, 14 and 17), but there is no satisfactory proof that any language of intimidation, threat, etc., was used at any of these meetings.

56. *Issues 7 and 8.*—These issues relate to pleas raised by the petitioner which, if accepted, would render the election wholly void under Section 100(1) Petitioner's case is that undue influence (including social ostracism and economic boycott) has extensively prevailed at the election and that the election has not therefore been a free election. The allegations of the petitioner in paras. 6 to 9 of the petition so far as they are necessary may be stated as follows:—The Vannias in the Constituency are the bulk of the population and form a closely knit and well organised community. In consolidation of the community, a great part was played by their Sangam the Vanniakula Kshatriya Sangam. It was animated and influenced by openly avowed communal aims. By communal appeal the community succeeded in capturing a majority of seats in the last District Board Elections. Emboldened by such success immediately prior to the general election, the community gave itself another name, *viz.*, the Tillers' party, so as to assume the appearance of non-communal group. But it was only a make-believe affair.

The objects and methods pursued by the party were the same as before (those of the V. K. Sangam). Though the 1st respondent nominally stood for election on the T.N.T. party ticket, his candidature was furthered by the V. K. Sangam by the same appeal to communal passions through leaflets and meetings and house-to-house propaganda. The 1st respondent and his workers exploited communal affinities in the election propaganda (in the aspect of communal advancement and interest). They used minatory language threatening Vannias with social ostracism and economic boycott.

57. The Harijans in the Constituency were to a great extent under the tight grip of Vannias and mostly dependent on the latter's bounty. The 1st respondent and his adherents and workers (not only made appeal to the Harijans on communal grounds, but) threatened them with economic ruin by way of eviction from land and withdrawal of their perquisites, if they failed to vote for the 1st respondent. To rally the Muslim voters they also made capital out of a recent incident at Meenamur where some Muslims who were suspected to be smugglers of contraband from Pondichery had a clash with the Police with heavy casualties. They did propaganda quoting this incident as a proof of the determination by the Congress Government to crush and cripple Muslims, the aim of the Government being genocide of Muslims. Due to this reason, the Muslims were influenced to give support to the 1st respondent.

58. Thus by intimidation of social and economic boycott unified to false propaganda and communal passions on an extensive scale, the 1st respondent and his agents and workers created in the electoral area an atmosphere not at all conducive to a free and fair election.

59. The 1st respondent and his agents and workers also did false propaganda by representing to the Vannias and Harijans that Congress was their public enemy who took away (arrack) their food by anti-drink legislation and beguiled them by promises of immediate restoration of drink to them.

60. In his counter statement, the 1st respondent denied these allegations. He also filed a reply to the petitioner's memo, dated 25th September 1952.

61. A large volume of evidence—both oral and documentary—was adduced in this matter; and the effect of it may be stated thus:—

The Vannias are the prevailing community in the Gingee constituency. They predominate in almost all the villages except in a few like Meenamur (which is a Muslim village) and Nallampillai-pethal (*vide* P.W. 26). They form 42 per cent. of the population according to petitioner (P.W. 4) and 1/3 (33-1/3 per cent.)

according to R.Ws. 22 and 24. They were imbued with a strong feeling of solidarity (*Vide* R.W. 4 and P.W. 18). For the advancement of their communal interests, they had their own organisation by name V. K. Sangam (also called *Thamiaharasarkula Vallbar Sangam*) with provincial, District and Taluk Sangams (*vide* P.W. 4 and R.W. 23). It had a communal flag. Its motto was "Let the Vannias prosper, When he was opposed by a Congress candidate (Venkatakrishna Reddiar) the let their solidarity increase" (*Vide* Ex. A-26). It had an official organ by name *Vanniamani*. (*Vide* R.W. 23).

62. In the Legislative Assembly election in 1946, the Vannias put up their own candidate *Vakil Gopal Goundar* in the name of their Sangam (V. K. Sangam). When he was opposed by a Congress candidate (Venkatakrishna Reddiar) the Sangam attacked the Congress as selfish and as not having done anything to the backward classes (which the Vannias claimed to be) in spite of its declared policy and made communal appeals to the Vannia voters with the slogan (Vannias' votes are only for the Vannias (*Vide* Exs. A-27 and 28). *Pachayappa Goundar* (R.W. 23) a member of the Executive Committee of the Provincial V. K. Sangam resigned from the congress, as according to him it got into the hands of self seekers and departed from its high policy. He made a fervent appeal to the Vannia voters to vote for the communal candidate (*Vakil Gopal Goundar*)—*vide* Ex. A-40. When *Gopal Goundar* was defeated at the election, he came forward with the declaration that the defeat was not his defeat but the defeat of their community. He appealed to the voters of his community that unless they pull together they would go under politically and the result of the election should be an eye-opener to them as to their future conduct (*vide* Ex. A-41).

63. When the District Board elections were announced, the V. K. Sangam issued a notice to their community calling attention to the resolution passed at the *Chidambaram Conference* deciding to put up Vannia Candidates for the District Board elections and urging the necessity of getting separate representation for their community and appealing to them to make sacrifices if need be to achieve such object (*vide* Ex. A-14). The Sangam put up candidate in its name for all the seats in the District Board against the Congress, when the elections came off in 1949 (*vide* R.W. 14). The Vannias held also conferences in various parts of the constituency, *Gingee*, *Palapadi* (*vide* Ex. A-45), *Thudupakkam*, *Naleyanur*, etc., appealing to communal passions of the Vannia Community (*Vide* R.W. 23). The Sangam candidates fought the Congress in the District Board elections and won the majority of the seats. They won the elections by asking for and gaining the support of the Vannias as Vannias and as candidates of the V. K. Sangam (*Vide* R.W. 18). When a re-election took place in the District Board in the constituency in which *Nataraja Kandar* won, there was again a communal appeal made by the General Secretary of the V. K. Sangam and other leading men of their community to elect *Nataraja* whose services for the advancement of their community are extolled (*vide* Ex. A-25). When the electoral rolls were revised with a view to giving adult franchise the V. K. Sangam made an appeal to the Vannias (*vide* Ex. A-42) to get themselves enrolled as a step, to gain a due share in public life and urged them to describe themselves as *Vanniakula Kshatriyas* in the column relating to community.

64. There was a District V. K. Sangam at *Cuddalore* with *S. S. Ramaswami Padayachi* as President. Its Secretary was *P. G. Narayanaswami Padayachi* (not examined as witness). This District Sangam had a branch Taluk V. K. Sangam in each taluk. The President of the *Gingee Taluk V. K. Sangam* from its inception is *Kuppuswami Kandar* (R.W. 24) who is the father of the 1st respondent. Its Secretary from then is R.W. 22 (*Ponpathi Nataraja Goundar*), P.W. 26, *Rajamanicka Goundar* of *Kurintipal*, is one of the members of the District Sangam at *Cuddalore* and has played an important part in the activities of the Sangam. He says "They hold no meetings if there are no elections. A few months prior to any election, the Sangam (V. K. S.) give up their lethargy and start activity. Then they function vigorously". After the Representation of the People Act, 1951 was passed it was no longer possible for V. K. Sangam to carry on election propaganda by making a communal appeal. The leaders of the Sangam were anxious to raise the status and standard of the Vannia community which they considered to be a backward class. They had, therefore, to adopt some other means to fight the elections. It is stated that the means adopted by them was by the starting of a new party called the *Tamil Nad Tollers Party*. The origin, formation and working of the T.N.T. party is stated by the various witnesses as follows:—

65. P.W. 26 says as follows:—"The T.N.T. Party is a purely Vannia party. There are no non-vannia members in it. I do not know and did not see the list of the party. I, *Salem Subramaniam*, *S. S. Ramasami Padayachi*, *A. Goyindasami Nayagar* and others joined together and had a talk among ourselves in the

Provincial V. K. Sangam in Madras. There, Salem Subramaniam brought forward a proposal that because it was not possible under the rules to put up candidates on communal basis, with a view to capture seats and posts, we must form a T.N.T. party and put up candidates in its name. We agreed and then a party was formed called Tamil Nad Tollers' party with S. S. Ramasami Padayachi as President and Salem Subramaniam as Secretary". As a matter of fact nobody is able to say who are the members of the T.N.T. party except for the fact that S. S. Ramaswami Padayachi is the President and Salem Subramaniam is the Secretary. The 1st respondent says as follows—"I did not formally get enrolled as a member of the T.N.T. Party. But, *in mind*, I became a member on seeing the manifesto of the T.N.T. party. There is no regular list or roll of members of the T.N.T. party. Apart from the election manifestoes Exs. B-2 and B-3, I do not know whether the T.N.T. party had any other documents or records defining the objects and aims of the T.N.T. party. T.N.T. Party has no specific building or office of its own". The 1st respondent's father R.W. 24 sums up the position very effectively by caring "S. S. Ramaswami Padayachi is the T.N.T. party. Ex. A-11 is a notice issued by the South Arcot District V. K. Sangam and signed by its President S. S. Ramasami Padayachi. It is to the following effect:—At a meeting of the Executive Committee held on 22nd September 1951 at Muthia Talkies, it resolved as follows:—(i) In the coming elections, as Vannians were generally tollers, in the interests of themselves and people of other communities who, like them (vannias), were also tollers, the Committee started a party in the Tamil districts and decided to set up candidates on behalf of that party in the coming elections. (ii) The South Arcot District V. K. Sangam has decided to give complete support to these candidates. (iii) In the V. K. Sangam conference held at Katpadi on 23rd September 1951, a special committee was formed in connection with this resolution being adopted on a provincial level by the V. K. Sangam of the other districts also. [Note:—Those who wish to apply for being candidates of T.N.T. should send their applications before 12th October 1951 (with a fee of Rs. 50 ordinarily and of Rs. 10 if the candidate was of a Depressed class). Form can be obtained from the address given below, i.e. S. S. Ramasami Padayachi, President, V. K. Sangam).

66. In response to the notice Ex. A-11, respondents 1 and 3 and R.Ws. 22 and 23 put in their applications to S. S. Ramaswami Padayachi for being selected as candidates. The 1st respondent himself has issued the notice Ex. A-1 (in his own hand). It announces that S. S. Ramasami would be camping at Gingee on 27th October 1951 to examine the applications which had been received and requested the taluk voters to give their views to the Taluk V. K. Sangam. This notice bears on the top the title of "T.N.T. Party notice", and it is subscribed at the bottom "Taluk V. K. Sangam, Gingee". S. S. Ramaswami Padayachi declared the 1st respondent as selected. The 3rd respondent did not accept this. He claimed right to be the selected candidate and issued notice Ex. B-5 challenging the selection of the 1st respondent. Several leading men of the V. K. Sangam took up the cause of the 3rd respondent. Vakil V. Gopal Goundar issued notice Ex. B-1 supporting the 3rd respondent. Two others issued notices Exs. A-30 and A-34. All these notices are addressed to the voters.

67. As if in reply to Exs. B-1 and B-5, a notice Ex. A-5 came to the Vannia voters of Gingee issued by the South Arcot District V. K. Sangam under the signature of its General Secretary P. G. Narayanaswami Padayachi, of date 5th December 1951. It is to the following effect:—(i) On 22nd September 1951 the District V. K. Sangam passed resolution to support the T.N.T. party in the coming elections. (ii) Therefore Vannia voters are requested to vote for the 1st respondent. (iii) Voters are requested to put their votes into the Cock-box without being duped by mischievous propaganda made by opportunists who tried to exploit the Sangam for their own benefit. (iv) it is the duty of the Vannia Public to elect genuine tollers, who are men of knowledge and uprightness. Ex. A-6 is the pamphlet issued by S. S. Ramaswami Padayachi himself on behalf of the T.N.T. party explaining and justifying the selection of the 1st respondent and warning voters not to be misled by the 3rd respondent's selfish and false propaganda.

68. Thus the voters of Gingee (or those of whom who received these notices) were bombarded by a hail of notices from both sides, some in support of the 1st respondent and some in support of the 3rd respondent. This puzzled, perplexed and discouraged some of the ardent workers of the 1st respondent. One of them was P.W. 26. He says as follows:—"\*\*\*\*\*The 3rd respondent was a well known influential man in our community. He was District Board member and Taluk Food Committee member. He was also sponsored by Vakil Gopal Goundar. So I felt that the situation had become complicated, that there was unhealthy propaganda on foot, that there was split in the ranks of the community and that there

might be untoward results. So I quietly stopped my propaganda for the 1st respondent". P.Ws. 18, 22, 23 and 24 continued their propaganda for the 1st respondent.

69. From the documents and other evidence the following facts appear clear beyond doubt:—(i) It is the V. K. Sangam which started the T.N.T. party. (ii) It did so with a view to get over the difficulty introduced in the way of communal propaganda (on grounds of caste and community) by the Representation of People Act (Section 124(5)). (iii) Applications from candidates for selection by the T.N.T. Party were called for (in Ex. A-11) by S. S. Ramaswami described as President of the V. K. Sangam. (iv) The selection of candidates was done by S. S. Ramasami with other people who formed along with him Ad Hoc Committees. (v) In connection with the present election, important men of the Community did propaganda for the 1st respondent at meetings and publications in support of the 1st respondent who was candidate of the T.N.T. party.

70. For the purpose of issues 6 and 7 what we are concerned with is not so much the connection or the nature of the Connection between the V. K. Sangam and T.N.T. but the methods adopted by the party in the conduct of Election. The question is whether there was any contravention of the provisions of the Representation of Peoples' Act, as mentioned in the issues. So far as the question of undue influence and intimidation is concerned, we have got the evidence of P.W. 26 as to how the propaganda was done until he withdrew from it in about the end of the first week of December. He says as follows:—We used to tell the people "our community is backward in all fields. With a view to advance our community, we have started a party called T.N.T. Party and have put up the 1st respondent for the constituency in the name of the party (T.N.T.). Therefore, all Vannias and V. K. Sangam should vote for him and support him. In places where Vannias were in a majority, we have also called Harijans and told them that they must also vote for the 1st respondent as they were moving very closely with the Vannias." In cross-examination he admitted as follows:—"In my propaganda", I told the people "On behalf of the V. K. Sangam our Aranganathan (1st respondent) has been put up in the name of the T.N.T. party. Therefore, we must all vote for the 1st respondent".

71. P.W. 26 does not mention that any appeal was made to Muslim voters. Nor does he say that any threat was used to the Harijans or to the Vannia voters. He says that the Harijans were simply told that they must vote for the 1st respondent as they were moving very closely with the Vannias. We are not concerned with the reasoning in that appeal. But certainly it is persuasive and not threatening in tone. P.W. 26 also says "It is the Nattamais of each village that do the jathikattu regarding the concerned defaulters in the village. To my knowledge, the V. K. Sangam has not interfered in any of these jathikattu matters within the individual villages. I do not know whether the taluk or the firka V. K. Sangam has power to get jathikattu imposed on any man through the village Nattamais. \*\*\*\* I do not know whether Vannias have right to insist on the Harijans voting in any particular manner. I do not know whether Vannias imposed any kattupadu on the Harijans during the last election". So it appears clear that until P.W. 26 stopped away from propaganda, there was no element of threat or intimidation or undue influence of Vannias, Harijans or Muslims.

72. It has to be considered whether there was such intimidation, undue influence, etc., after P.W. 26 stopped propaganda. That again raises the question as to what was the occasion or necessity and what were the new circumstances which brought that occasion or necessity after P.W. 26 quit the field. The learned advocate for the petitioner contended that the special circumstances which made the difference was the very circumstance which made P.W. 26 quit the field, viz., that a tense situation had been created by the persistent unrelenting rivalry of the 3rd respondent (with the 1st respondent), resulting in a fight of Vannia versus Vannia, with a split in the ranks of the Vannias and resulting in unhealthy propaganda. We find it difficult to uphold this contention.

73. So far as the Muslims or Harijans are concerned, the rivalry of the 3rd respondent need not have made any difference at all. There was no need for the 1st respondent to hold out threats to Muslims or Harijans because his chance of success was in no way threatened by the contest by the 3rd respondent.

74. So far as the Vannias are concerned, the learned Advocate for the petitioner points out from the evidence that there was a machinery available for Kattupadu and social boycott among the Vannias and that this was a very potent, sure and fearful weapon. From this, he contends that the 1st respondent would have used this weapon and that otherwise he could not have got elected. In arguing like

this, he wants us to presume that the 1st respondent would have utilised that weapon of threat of social and economic boycott etc. We do not feel convinced to make any such presumption for the following reasons:—(i) In the first place, it would amount to presuming a fact in issue which has to be proved by concrete and convincing evidence. (ii) The result of the election can be the result of so many factors that it is not possible to presume that it was due to any particular factor alone, and, in particular to the assumed use of false propaganda, undue influence, threat etc. (iii) The most outstanding and well-known Vanniar like R.Ws. 22, 23 and 24 were openly and sincerely doing propaganda for him. (iv) As the T.N.T. party candidate, he had the support of other groups like the Communist party and Dravida Kazhagam and Dravida Munnetra Kazhagam. The 1st respondent was not at all in a desperate situation. P.W. 9 who is the only man who spoke about boycott having taken place (he deposed that the Vannias of his village of Thirumathikunnam boycotted the Harijans as the latter had voted for the Congress, but gave up the Kattupadu at his intercession) says as follows:—"No one has made any Kattupadu to prevent me from deposing in this Tribunal. No one can do so. The V. K. Sangam has no power over me and cannot make any *kattupadu* to blind me. Voting was done by each man as he chose." P.W. 13 says "R.Ws. 22, 23 and 21 had no power over Nattamais of my village. The former would come and question the latter. But Nattamais of my village were not bound to obey or follow the dictates of men who spoke at the meeting".

75. Whether the 1st respondent and his agents and his workers on his behalf used any undue influence or intimidation, etc., as alleged in the petition has to be proved by positive evidence. Such positive evidence as has been let in by the petitioner is not sufficient to prove and does not prove satisfactorily that such undue influence, intimidation, etc., was used, especially when considered along with the rebuttal evidence let in by the 1st respondent.

76. *Communal Propaganda.*—Soon after the rioting at Meenampur (the paper Ex. A-46 shows that this was on 8th September 1951) a large number of wounded Muslims were brought from that village to Gingee a few miles off. There, the 1st respondent voluntarily went to the spot and did his best to help the wounded to be taken away for treatment. The Muslim relatives and friends of these wounded men found in him a great source of help and courage. It is no wonder that the Muslims had a soft corner in their hearts for this man when he stood for election a short time later. In any case, the evidence of P.W. 26 does not mention that in the election propaganda, there was any reference to Muslims or Meenampur.

77. The prevailing community in Velanthangal village consists of people who are Christians by religion and Vannias by origin. An election meeting for the 1st respondent took place in that village in the Church premises. But there is no evidence that any appeal was made to these people (or other Christians and other voters) on the ground of religion, caste or community.

78. So far as Vannias are concerned, if they did feel communal-minded and desirous of voting only for a Vannia, they would have felt themselves free to vote for the 1st respondent or the 3rd respondent. The slogan would have no propaganda-value in the contest between the 1st respondent and the 3rd respondent.

79. The 3rd respondent was a Vannia. Several important men of the Vannia community and the V. K. Sangam were supporting him (*vide* Exs. B-1, A-30 and A-34). The learned advocate for the petitioner contends that, in the circumstances, it would have been very useful to the 1st respondent to represent himself as a candidate who had the full support of the V. K. Sangam (which was the accredited association of the Vannias) and that the 3rd respondent was one who defied the authority of the V. K. Sangam and did not have the support or the authority of the Sangam behind him. There is some evidence to show that the 3rd respondent put forward a claim to be the accredited V. K. Sangam candidate. The 1st respondent and his supporters refuted that claim. But even then, they avoided a counter claim for the 1st respondent to be a candidate standing on behalf of the V. K. Sangam, on ticket of the V. K. Sangam. The 1st respondent and his supporters have throughout attempted to make it clear to voters that the 1st respondent was standing on the T.N.T. party ticket (not on the V. K. Sangam ticket) and that the V. K. Sangam was only supporting the 1st respondent in his capacity as T.N.T. party candidate.

80. Ex. B-4 is a notice issued by P. G. Narayanaswami in which he says as follows:—"There is absolutely no connection between the forthcoming elections of 5th January 1952 and the Vanniar Sangam. Nobody should take part in the elections in the name of the Vanniar Sangam. Do not be duped by mischievous

propaganda by opportunists who try to exploit the Sangam for their own purpose. The duty of the Vannia public is to elect to the legislature, sincere toilers who are men of education, knowledge and uprightness. I request all the Public to elect the 1st respondent who is the T.N.T. candidate." P.W. 26 says that he saw this notice Ex. B-4 even before the election.

81. The V. K. Sangam, though it might have had the ultimate object of dealing with cultural and economic uplift, is by its very name based on Vanniakulam, i.e. a community or sub-caste. On the other hand, the T.N.T. party is by its very description and name, based on the concept of toilers, i.e. mode of living, not community, caste or religion.

82. The creation of a new party and the adoption of a non-communal (i.e. non-caste) name show a conscious effort to conform with the law. The placards, notices, etc., used during the propaganda for the 1st respondent all described the 1st respondent as standing for the T.N.T. party and not as standing on behalf of the V. K. Sangam.

83. In the selection of candidates, so far as this Gingee Taluk is concerned, the 1st respondent who was young man with very little past connection with the V. K. Sangam, was preferred to men like R.Ws. 22 and 23 and the 3rd respondent who had long connection with the V. K. Sangam and had served it well.

84. Candidates for the T.N.T. party were not selected from Vannias alone. For the Reserved Seats, Harijans were selected and put up by the T.N.T. party. Of course they could not have put up Vannias for those Reserved Seats. But, in any case the selection and support of Harijan candidates for reserved seats, shows that the party's interest did not stop at the narrow bounds of the Vannia sub-caste and that it extended beyond to the Harijan caste which also was certainly backward as a class. The T.N.T. party also put up during last elections (with success) one Muthukumarasami Naidu for Thirnkollur Constituency, preferring him to a Vannia applicant Srinivasa Goundar. P.W. 4 explains that this was done as a matter of clever tactics, because there was no chance for a Vannia in that Constituency. Whatever were the reasons for putting up these non-Vannia candidates, the fact still remains that the T.N.T. party did select and support non-Vannia candidates. In the pamphlet Ex. A-11 the V. K. Sangam openly calls for applications from people of other backward classes besides Vannias. It also mentions that the T.N.T. party was started for the benefit of all toilers including non-Vannias.

85. These circumstances show that the T.N.T. party avoided making appeals to the Vannia voters to vote on basis of caste or community. It is true that some people who made propaganda on his behalf, i.e. R.Ws. 22, 23 and 24 successfully made propaganda on communal lines in the District Board Elections in 1949. But such propaganda might have been lawful in those days. It cannot be presumed that they would have persisted in the same type of propaganda for the last election (on 5th January 1952), for the T.N.T. party when they know that such propaganda was not then lawful. The evidence does not prove that in the propaganda made by the 1st respondent there was an appeal to the voters to vote on ground of caste or community or religion etc., as contemplated in Section 124(5) of the Representation of People's Act.

86. The documents relied upon by the learned Advocate for the petitioner as showing that there was an appeal to vote on grounds of caste and community etc., are Exs. A-1, A-5, A-6, A-8 and A-11. (Exs. A-1(a), A-5(a) etc., are printed notices corresponding to the manuscripts Exs. A-1, A-5, etc.).

87. The clause [Section 124(5)] reads thus:—"The systematic appeal to vote or refrain from voting on grounds of caste, race, community or religion or the use of, or appeal to, religious and national symbols, such as the national flag and the national emblem, for the furtherance of the prospects of a candidate's election." Under this clause, three things are necessary: (i) There should be an appeal to vote; (ii) such appeal should be systematic; and (iii) the appeal should be made on grounds of caste or community etc.

88. Ex. A-11:—This is not an appeal to vote at all. It only informs the public of the formation of the T.N.T. party and calls for applications for being selected as candidates to be put up on behalf of the T.N.T. party.

Ex. A-1 is also not an appeal to vote. It is a request to the voters of the Taluk to give their opinions about the applications for selection of candidates.

Ex. A-8 is a notice which consists of two parts. The first part is signed by M. Muhammad Ismail, President of the Indian Union Muslim League. It bears the title of "Notice by the Indian Union Muslim League to Muslims of Thindivanam and Gingee Taluka". It refers to a resolution of the Muslim League Parliamentary

Board to support the 1st respondent and another and it [Ex. A-8(a)] asks the voters to vote for them accordingly. The second portion purports to be signed by the 1st respondent and also refers to the resolution of the Muslim League Parliamentary Board. Ex A-8(a) contains an appeal to vote, but not on any ground of caste, community or religion. The appeal is to Muslim voters to vote for non-Muslims.

Ex. A-5(a):—It is no doubt an appeal to vote for the 1st respondent. But it does not appeal to the voters to vote on the ground of the 1st respondent being a member of their caste or community. On the other hand, it expressly tells the voters as follows:—

(a) that the 1st respondent is a candidate of the T.N.T. party (not of V. K. Sangam);

(b) that it was the paramount duty of the Vannia voters to elect to the Legislature genuine toilers who were people of education and knowledge and particularly upright.

Ex. A-6(a):—This is an appeal of the T.N.T. party (by its President) to the voters of Gingee Constituency to vote for the 1st respondent. But there is no appeal in it on grounds of caste or community.

89. Thus none of these documents shows that there was any corrupt practice by the 1st respondent or any one on his behalf as contemplated in Section 124(5).

90. We have already found under Issue 1 that no acts of bribery have been proved. There is no evidence that bribery extensively prevailed at the election.

So we find as follows:—

91. Issue 6.—Respondents 1 and 2 and others held public meetings shown in Schedule E, but they did not use language of intimidation, threat, etc., at those meetings.

92. Issue 7.—The facts alleged in the petition and referred to in this issue have not been proved.

93. Issue 8.—It is not proved that the 1st respondent directly or through others made systematic appeal to vote or to refrain from voting on grounds of caste, community and religion as alleged in paragraphs 6 and 9 of the petition.

94. Issue 10.—In view of our findings on the issues, we hold that petitioner is not entitled to any of the reliefs prayed for in the paragraph 4 read with paragraph 20 of the petition. Under Section 98(a) of the Representation of People's Act, we dismiss the election petition. Under Section 99, we find that no corrupt or illegal practice has been proved to have been committed by or with the connivance of, the 1st respondent or his agent. We do not think it necessary to record the name of Abdul Gaffoor who has been proved at the trial to have been guilty of false personation as he has been already convicted by a criminal court under Section 171-F I.P.C. (*Vide* Ex. A-16). We fix the total amount of costs payable at Rs. 300 and direct that it should be paid by the petitioner to the 1st respondent.

Pronounced in open Court, this the 25th day of April 1953.

(Sd.) H. A. AYYAR, *Chairman.*

(Sd.) L. S. PARTHASARATHI IYER, *Member.*

(Sd.) V. C. VIRARAGHAVAN, *Member.*

The following witnesses were examined:—

FOR PETITIONER

1. Sri Muthuswami Naidu.
2. Sri Sriramalu Chattiar.
3. Sri Muthuswami.
4. Sri Kasiramakrishnaswami Pillai (Petitioner).
5. Sri T. S. Vaidyanathan.
6. Sri Syed Karim Sahib.
7. Sri Senthamaraikannan Naidu.
8. Sri Ramaswami Kalnar.
9. Sri Nuthurama Goundan.

10. Sri Arumaga Boopathy.
11. Sri Munuswami Boopathi.
12. Sri Harijan Ponnai.
13. Sri Venkatakrishna Goundan.
14. Sri Munuswami Goundan.
15. Sri Adimoolam.
16. Sri Thottai Ponnai.
17. Sri Rajagopala Chettiar.
18. Sri Bharmalinga Chetty.
19. Sri Dandapani Chetty.
20. Sri Rangappa Chetty.
21. Sri Chakrapani Naicker.
22. Sri Govindasami Pillai.
23. Sri Govindasami Naidu.
24. Sri Ramaswami Naidu.
25. Sri Katturaja.
26. Sri Rajanaricka Koundar.
27. Sri Havildar Savarimuthu.

## FOR RESPONDENT

1. Sri R. Subramaniam.
2. Sri Chidambaram Mudaliar.
3. Sri P. Anthoraisami.
4. Sri Arunachalam.
5. Sri Padmanabha Goundar.
6. Sri Kothandarama Koundar.
7. Sri Venkatesa Goundan.
8. Sri Rajagopala Naidu.
9. Sri Varada Goundar.
10. Sri Karia Kavandar.
11. Sri Kannayiram.
12. Sri Govindarajulu Chettiar.
13. Sri Ramalinga Kavandar.
14. Sri Munuswami Nair.
15. Sri V. S. Govindaraja Goundar.
16. Sri Krishna Goundar.
17. Sri Govindaraja Goundar.
18. Sri Narayanaswami Naidu (2nd respondent)
19. Sri Muhammad Tahub Sahib.
20. Sri Govindaraja Kandar.
21. Sri K. Aranganathan (1st respondent).
22. Sri Nataraja Goundar.
23. Sri Pachaiyappa Naicker.
24. Sri Kuppuswami Kandar (father of the 1st respondent).

The following exhibits were filed :—

## For Petitioner :—

- |                  |   |
|------------------|---|
| A1/17-10-1951    | Manuscript for notice by the Tamil Nad Toilers Party for selection of candidates from Gingee Constituency by the Election <i>Ad-hoc</i> Committee on 27th October 1951. |
| A1(a)/17-10-1951 | Printed copy of Ex. A-1.  |
| A2/19-10-1951    | Bill of the Sri Ramajayam Press, Tiruvannamalai for Rs. 8 in the name of Pachayappa Kandar for printing 200 copies of notice.   |
| A3/17-12-1951    | Manuscript for notice of the meetings to be held in connection with the Elections to Gingee Constituency, by the Tamil Nad Toiler's Party.                              |



A3(a)	Printed copy of Ex. A-3.
A4/5-12-1951	Manuscript for notice by Sri K. Aranganathan appealing to voters to help him by giving the votes to him.
A4(a)/5-12-1951	Printed copy of Ex. A-4.
A5/5-12-1951	Manuscript for notice issued by P. G. Narayanaswami Padayachi, General Secretary of South Arcot District Vanniyakula Kshathiriyasangam to the Vanniya Voters of Gingee Constituency.
A5(a)/5-12-1951	Printed copy of Ex. A-5.
A6/17-12-1951	Manuscript for notice issued by S. S. Ramaswami Padayachi, Leader of T. N. T. party to the voters of Gingee Constituency.
A6(a)/17-12-1951	Printed copy of Ex. A-6.
A7/17-12-1951	Manuscript for notice for election meetings for Election to Madras Legislative Assembly (voters of Gingee Constituency) issued by the Election Propaganda Committee, Gingee.
A7(a)/	Printed copy of Ex. A-7.
A8/28-12-1951	Manuscript for a notice issued by the Muslim League, Gingee and by K. Aranganathan (1st respondent).
A8(a)/	Printed copy of Ex. A-8.
A9/15-11-1951	Manuscript for an appeal and request issued by Sri V. Gopala Kavundar, Vakil Tindivanam to the voters of Gingee Constituency.
A9(a)/15-11-1951	Printed copy of Ex. A-9.
A(9)a-1	Portion marked in pages 2 and 3 of Ex. A. 9 (a).
A10/22-1-1952	Bill for Rs. 315-4-0 with receipt therefor issued to Sri K. Aranganathan (1st respondent) by Swathanthara Devi Press, Tiruvannamalai.
A11/	Printed notice issued by Sri S. S. Ramaswami Padayachi, President of Vannia Kula Kshathiriyasangam, South Arcot containing resolutions passed on 22nd September 1951 at the meeting of the Executive Committee of the Sangam.
A11(a)/	Portion marked relating to the formation of T. N. T. party.
A11(b)/	Portion marked relating to the resolution for giving support to candidates.
A12/	Printed notice for meeting of the Tamil Arasakula Valibar Sangam.
A13/8-11-1951	Issue of Vanniamani (journal) of 8th November 1951.
A13(a)	Portion marked at Page 2 of the journal appeal by P. K. Shanmuga Reddy.
A14/	Notification No. 1 relating to the Elections to Local Bodies issued by South Arcot District Vannakula Kshathiriyar alias Tamil Arasakula Sangam.
A15/	Marked copy of Electoral roll of Ananthapuram Polling Station No. 183 Booth No. 1.
A15(a)	Entry against voter in Serial No. 689.
A15(b)	Entry against voter in Serial No. 690.
A15(c)	Entry against voter in Serial No. 691.
A15(d)	Entry against voter in Serial No. 692.
A15(e)	Entry against voter in Serial No. 671 and 672.
A16/12-2-1952	Calendar and judgment in C. C. 74/1952 Sub-Divisional Magistrate's Court, Villupuram.
A17/15-12-1951	Printed notice by the Communist Party Ananthapuram Committee, appealing to support T. N. T. party candidate.
A18/	Printed notice for Tamil Tirunal to be held under the Presidency of Sri Aranganathan (R-1).
A19/25-2-1952	Printed notice for the Public Meeting to be held under the auspices of the Dravida Munnetra Kazhagam Gingee
A20/	Statement of Election expenses of Sri K. Aranganathan 1st respondent.
A20(a)	Entry of payment of Rs. 2 to Kannayiram (R. W. 11) at page 4.
A21/4-1-1952	Slip signed by the 1st respondent for having paid Rs. 2 to Kannayiram.

A22/	Printed notice issued by Porval Nataka Manrathar for a drama — Youth's voice — to be staged on 4th June 1952 at Palapadi under the Presidency of K. Aranganathan M. L. A.
A23/5-7-1951	Printed Notice (containing request) issued by M. Ethurasan, General Secretary of Dravida Munnerta Kazhagam Chettipalayam.
A24/3-7-1951	Printed request issued by R. Natesa Kandar, General Secretary, Ginge Dravida Munnerta Kazhagam.
A25/	Printed notice issued by P. G. Narayanaswami Padayachi and others to the effect that Sri Nataraja Kandar must be re-elected.
A26/	Printed invitation for the celebration of the first anniversary of Ginge Taluq Vanniakula Kshathiriyar alias Tamil Arasakula — Sangam.
A27/	Printed notice issued by the Secretary of Tamil Arasakula Valibar Sangam of Semmar in Tirukkoyilur Taluq.
A28/11-3-1946	Printed notice of Warning issued by V. R. Janardhanam, Organiser and Action Committee member of South Arcot District Tamil Arasakula Valibar Sangam.
A29/	Printed notice for Music Performance by K. M. Haniba to be held under the Presidency of K. Aranganathan M. L. A. on 4th J 1952.
A30/17-12-1951	Printed Election manifesto issued by P. Ramakrishnan Kandar of Vallam Village appealing to support R. S. Parianna Kavandar.
A31/	Symbol of Tamil Nad Toiler's party — Cock within a circle with the words printed outside the circle.
A32	Form No. 6 — appointment of K. Govindaraja Kandar as Polling Agent at Vallam on behalf of Aranganathan — 1st respondent.
A33/7-1-1952	Receipt for Rs. 30 for rent paid by 1st respondent for election office.
A34/17-12-1951	Printed notice issued Janardhanam Vasantha cafe Vallam to support Sri R. S. Porianna Kandar.
A35/	Printed notice in the form of request issued by V. Gopala Kavandar and others requesting to attend the meeting on 19th October 1951 for selection of candidates for Election.
A36/3-7-1952	Issue of Swadesamitran containing the extract of the speech made by Sri K. Aranganathan (1st respondent) at the Madras Legislative Assembly (page 2).
A37/9-2-1952	Issue of the journal Porval.
A37(a)	Portion marked at pages 12 and 16 of the journal.
A38/	Printed invitation for marriage to be celebrated on 24th August 1952 containing the name of 1st respondent as one of the speakers on the occasion.
A39/7-4-1944	Publication No. '4' — Printed request issued by South Arcot District Tamil Arasakula Valibar Sangam.
A40/12-3-1946	Printed copy of letter of resignation from congress by Pachayappa Nalcker (R. W. 23).
A40(a)	Portion marked in para 1 of A-40.
A40B/	Portion marked in para 2 of Ex. A-49.
A41/27-3-1946	Printed letter by V. Gopala Kavandar of Tindivensa thanking all who have worked for him in the Elections and informing Vanniakula Kshathiriyar friends that they will soon realise their folly.
A42/No date	Printed notice issued by south Arcot District Arasakula Valibar Sangam appealing to all vanniars to enrol themselves as voters.
A42(a)	Note printed at the bottom of the notice asking the vanniars to mention without fail their caste as Vanniakula Kshathiriyar.
A43	Printed appeal by P. G. Narayanaswami and others to the effect that Sri Nataraja Kandar should be re-elected.
A44/	Printed notice thanking all those who voted for Nataraja Kandar at the Elections on 29th May 1950 for District Board.
A45/	Printed notice for the Vanniakula Kshathiriyar Conference to be held on 5th February 1949 at Palapadi.

A46/26-9-1951	Issue of Dinamani containing the proceedings of the Vanniakula Kshathiriya Conference held at Katpadi on 23rd September 1951.
A47	Printed notice for the Toiler's party conference to be held under the auspices of the Vanniakula Kshathiriya Sangam Kallakurichi Taluk to be held on 14th October 1951 at Kallakurichi.
A48/8-3-1946	Printed appeal made to the Tamil Arasakula Vanniara by S. R. Rajamanicka Kandar and T. Pachayappa Naicker to support the Congress at the Election.
A49/1-11-1951	Issue of the journal Vanniamani.
A50/2-7-1952	Printed copy of Madras State Legislative Assembly Debates containing the speech made by K. Aranganathan (1st respondent) at pages 279 to 281.

## FOR RESPONDENT :—

B1/3-12-1951	Printed appeal issued by V. Gopala Kavundar Vakil Tindivanam to the voters of Gingee constituency.
B2/	Printed election manifesto of Tamil Nad Toiler's party.
B3/1951	Printed copy of General Election Manifesto of Tamil Nad Toiler's Party.
B3(a)	Printed matter at the inside page of cover page " S. S. Ramaswami Padayachi, etc., in Ex. B-3.
B4/	Notice issued by P. G. Narayanaswami Padayachi, General Secretary to the Vannia voters of Gingee constituency appealing to support K. Aranganathan (1st respondent).
B5/3-12-1951	Printed copy of appeal issued by R. S. Perianna Goundar to the voters of Gingee Constituency regarding elections to be held on 5th January 1952.
B6/Nov. 1951	Printed election manifesto of Tamil Nad Communist Party.
B7/	Printed copy of instructions issued by Tamil Nad Toilers Party to the Election agents, etc.
B8/8-4-1949	Certified copy of judgment in C. C. 605-49 on the file of Gingee Stationery Sub Magistrate convicting and sentencing Katturaja (P. W. 25) under Section 379 I. P. C.
B9/30-1-1953	Telegram sent by Veerasami Nainar of Gingee to the Manager, Ashok Bhavan, Tiruchi regarding Rs. 100 sent by Telegraph Money Order.
B10/9-3-1953	Joint memo. filed by the advocates for petitioner and 1st Respondent showing receipt of moneys from Veerasami Nainar of Gingee.

(Sd.) R. A. Ayyar, *Chairman.*(Sd.) L. S. Parthasarathi Iyer, *Member.*(Sd.) V. C. Viraraghavan, *Member.*

[No. 19785/52-Elec. III/6814.]

BY order,

P. R. KRISHNAMURTHY, Asst. Secy.

